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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,944	02/12/2002	Edward M. Kraine JR.	1316C-000077	6965

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EXAMINER

BINDA, GREGORY JOHN

ART UNIT PAPER NUMBER

3679

DATE MAILED: 04/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,944

Applicant(s)

KRAINE ET AL.

Examiner

Greg Binda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed on Feb 24, 2004 in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 15, 2004 has been entered.

Election/Restrictions

3. Claims 8 & 9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election of Species I (shown in Figs. 1-3) was made **without** traverse in Paper No. 5.

Response to Amendment

4. In the amendment filed Jan 15, 2004, applicant argues that claims 8 & 9 should be rejoined if claim 1 is allowed, presumably because claim 1 is generic. However, in the course of prosecution, claim 1 has been amended (see particularly the limitations at lines 2, 3 & 9-11) so that the claim no longer reads on the unelected species (i.e. it is no longer generic). Therefore, claims 8 & 9 cannot be rejoined if claim 1 is allowed.

Claim Rejections - 35 USC § 102

5. Claims 1, 3, 10 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrew, US 3,547,369. Fig. 1 shows a pivot joint comprising: an inner member 28 having an outer surface and an end surface generally perpendicular to the outer surface; an elastomeric member 30 disposed around the inner member, the outer surface and the end surface of the inner member 28 being rotatable within the elastomeric member 30; an outer member 20 disposed around the elastomeric member 30, the elastomeric member 30 being bonded (see also col. 4, lines 68+) to the outer member 20, the outer member 20 having a first portion 22 disposed opposite to the outer surface of the inner member 28 and a second portion 24 disposed opposite to the end surface of the inner member 28; and a low friction member (see "lubricant" in col. 3, line 29) separate from the elastomeric member 30 that coats the inner member 20.

6. Claims 1, 3, 10 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Melton et al, US 3,408,124. Fig. 1 shows a pivot joint comprising: an inner member 20 having an outer surface and an end surface generally perpendicular to the outer surface; an elastomeric member 28 disposed around the inner member, the outer surface and the end surface of the inner member 20 being rotatable (see also col. 3, lines 45-50) within the elastomeric member 28; an outer member 36 disposed around the elastomeric member 28, the elastomeric member 28 being fixedly secured (see also col. 1, lines 65+) to the outer member 36, the outer member 36 having a first portion disposed opposite to the outer surface of the inner member 20 and a second portion disposed opposite to the end surface of the inner member 20; and a low friction member 23 separate from the elastomeric member 28 that coats the inner member 20.

7. Claims 1, 3, 10 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Herbenar, US 2,846,251. Fig. 2 shows a pivot joint 10 comprising: an inner member 30 having an outer surface 30a and an end surface 30b generally perpendicular to the outer surface 30a; an elastomeric member 28 disposed around the inner member 30, the outer surface and the end surface of the inner member 30 being rotatable (see also col. 3, lines 41) within the elastomeric member 28; an outer member 20, 33 disposed around the elastomeric member 28, the elastomeric member 28 being fixedly secured (see also col. 3, lines 50 & 51) to the outer member 20, 33, the outer member having a first portion 20 disposed opposite to the outer surface 30a of the inner member 30 and a second portion 33 disposed opposite to the end surface 30b of the inner member 30; and a low friction member 29 separate from the elastomeric member 28 that coats the inner member 30.

Claim Rejections - 35 USC § 103

8. Claims 1, 3-5, 10 & 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al, US 3,369,802 (Wallace) in view of White, US 3,218,383. Fig. 1 shows a pivot joint comprising: an inner member 20, 26 having an outer surface and an end surface generally perpendicular to the outer surface; an elastomeric member 50 disposed around the inner member, the inner member slidably engaging (see also col. 2, lines 36-38 & 49-51) the elastomeric member 50; and an outer member 12 disposed around the elastomeric member 50, the elastomeric member being fixedly secured (by the screw 54 and the cubic shape of the chamber 14) to the outer member 12, the outer member 12 having a first portion disposed opposite the

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outer surface of the inner member and a second portion disposed opposite to the end surface of the inner member. Fig. 1 shows the inner member can rotate within the elastomeric member 50 around the axis of the inner member 20, 26. Figs. 1 & 2 show the pivot joint includes an axial retention member that comprises a rib 36 formed on the inner member 20, 26 disposed in a groove formed in the elastomeric member 50.

In col. 2, line 31, Wallace discloses a low friction member, silicone but does not show a low friction member that is separate from the elastomeric member 50. In col. 4, lines 17-25, White teaches providing a pivot joint with a separate low friction member 14 in order to provide additional lubrication. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pivot joint of Wallace by including a separate low friction member in order to provide additional lubrication as taught by White.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haller and Templeton each show a pivot joint.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (703) 305-2869. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703) 308-1159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Greg Binda
Primary Examiner
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